

REMARKS/ARGUMENTS

The Final Office Action mailed May 31, 2005 has been carefully considered.

Reconsideration in view of the following remarks is respectfully requested.

Claim Status and Amendment to the Claims

Claims 1-24 are now pending.

Claims 1, 9, 16 and 22-24 have been amended to further particularly point out and distinctly claim subject matter regarded as the invention. The amendment also contains minor changes of a clerical nature. No “new matter” has been added by the amendment.

The 35 U.S.C. §102 Rejection

Claims 1-24 stand rejected under 35 U.S.C. §102(e) as being allegedly anticipated by Rossmann (U.S. Pat. No. 6,430,409), among which claims 1, 9, and 16 are independent claims. This rejection is respectfully traversed.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.”

Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 869 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). *See also*, M.P.E.P. §2131.

Claim 1 recites a system comprising (a) a computer operably connected to a network, the computer having software configured to track the status of multiple modem units, the software allowing for the production of *status checks* to be sent to the multiple modem units, and (b) modem units configured to receive *status check messages*, the modem units being associated with host processors, the modem units being configured to reply with *modem status information* without being controlled by the host processors, as amended (*emphasis added*).

In the Final Office Action, the Examiner maintains the rejections and alleges that the elements of the presently claimed invention are disclosed in Rossmann. The Examiner specifically equates Rossmann's cell phones with the claimed modem units, Rossmann's "messages" sent from a computer server to cell phones with the claimed status checks (status check messages), and Rossmann's "response from cell phone" with the claimed reply from the modem units. Furthermore, the Examiner alleges that the "resource locator" included in Rossmann's message (column 6, line 60) and the Rossmann's description that "each two-way data communication device [] can be configured to transmit data to and receive data from any desired combination of computers on computer networks" (column 8, lines 3-4) discloses the claimed modem unit identification information included in the status information (with respect to Claims 22-24). The Applicants respectfully disagree for the reasons set forth below.

First, as clearly recited in Claim 1, the "status check message" is a specific message sent from the computer to a modem unit to check the status of the modem unit.

The modem unit replies this message with modem “status” information, which is the information of the status of the modem unit, as the term represents itself. The modem status information may include, as recited in Claim 22, at least one of up and running information, signal strength information, network parameters, and modem unit identification information. Thus, the claimed modem status information is associated with the modem, but not information of the computer or host processor, or any location of resources stored in a server computer on the network.

Rossmann describes two-way data communication devices such as cellular telephones by which a user interacts with a server on a computer network (column 1, lines 31-34 thereof). In Rossmann, a user (client module in the data communication device) first transmits a message to the server, and the server processes the message and transmits a response to the user’s data communication device (column 4, lines 34-45 thereof). The client module interprets the response and generates a user interface, which allows the user to further communicate with the server, for example, to input data, retrieve data, or store information (column 4, line 46- column 5, line 54 of Rossmann). Thus, in Rossmann, the alleged “message” sent from the server to the client module (cell phone) is a *reply* responding to the original message from the user. There is no mention or suggestion in Rossmann that the server is checking the status of the client module or cell phone (the alleged modem unit).

Furthermore, Rossmann’s wireless mobile telephone has a processor, and the client module of the mobile telephone executes on that processor (column 48, lines 18

and 31 thereof). That is, Rossmann's client module is within the processor, and thus any operation or response of the Rossmann's client module is controlled by the processor. Therefore, Rossmann also fails to disclose, teach, or suggest client modules (the alleged modem units) being configured to reply *without being controlled by the host processors*, as recited in Claim 1.

In addition, Rassmann's resource locator (the alleged modem identification) is clearly defined in Rossmann as "identifying a resource in a server on said data network" (column 48, lines 41-42). Furthermore, merely transmitting data to and from a server does not suggest that such data includes identification information of a specific modem unit, because the source or destination information of transmitted data (data packets) which is an IP address typically dynamically allocated to a device, cannot identify the device (or the alleged modem) itself.

Claims 9 and 16, as amended, also include substantially the same distinctive feature as claim 1.

Accordingly, it is respectfully requested that the rejection of claims based on Rossmann be withdrawn. In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

Conclusion

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

Request for Entry of Amendment

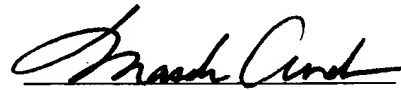
Entry of this Amendment will place the Application either in condition for allowance, or at least, in better form for appeal by narrowing any issues. Furthermore, the present amendment neither raises a new issue nor requires a new search, since the amendment is merely clarify the term “modem status information” whose exemplary features have been recited in dependent claims 22-24. In addition, the term “modem status” has been used in original Claim 16 and thus it has been apparent that the status is that of the modem. Accordingly, the Examiner has already fully considered the features. Other changes are only concerned with formality of the claims (correction of typographical errors). Accordingly, entry of this Amendment is appropriate and is respectfully requested.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 50-1698

Respectfully submitted,
THELEN REID & PRIEST, LLP

Dated: August 23, 2005

A handwritten signature in black ink, appearing to read "Masako Ando", written over a horizontal line.

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